

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AUTOMOBILE CLUB OF NEW :
YORK, INC. d/b/a AAA NEW YORK :
and AAA NORTH JERSEY, INC., : 11 CIV 6746
: (RKE) (HBP)
: Plaintiffs,
: **DECLARATION OF**
: **KEVIN P. MULRY IN**
: **OPPOSITION TO MOTION**
: **FOR SUMMARY JUDGMENT**
-against- :
THE PORT AUTHORITY OF NEW YORK :
AND NEW JERSEY, :
Defendant. :
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KEVIN P. MULRY, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following statements are true and correct to the best of his knowledge:

1. I am a member of the firm of Farrell Fritz, P.C., attorneys for plaintiffs Automobile Club of New York, d/b/a AAA New York and AAA New Jersey, Inc. (“AAA” or “Plaintiffs”). I submit this declaration in opposition to the motion of defendant Port Authority of New York and New Jersey for summary judgment.
2. Attached hereto as Exhibit “A” is a true and correct copy of excerpts from the transcript of the deposition of Michael Fabiano dated November 29, 2012.
3. Attached hereto as Exhibit “B” is a true and correct copy of excerpts from the transcript of the deposition of Rosemary Chiricolo dated October 3, 2012.
4. Attached hereto as Exhibit “C” is a true and correct copy of a Memorandum dated August 5, 2011 from Christopher O. Ward and Bill Baroni to All Commissioners, with attachments (AAA 252-252i).

5. Attached hereto as Exhibit "D" is a true and correct copy of a Port Authority Press Release dated August 5, 2011, found at http://www.panynj.gov/press-room/press-item.cfm?headLine_id=1401.

6. Attached hereto as Exhibit "E" is a true and correct copy of an Affidavit of Michael Fabiano dated November 4, 2011, with exhibits (doc. no. 14).

7. Attached hereto as Exhibit "F" is a true and correct copy of a Reply Affidavit of Michael Fabiano dated November 29, 2011 (doc. no. 23).

8. Attached hereto as Exhibit "G" is a true and correct copy of a letter dated August 18, 2011 from Governors Chris Christie and Andrew Cuomo to Chairman Samson and Vice Chairman Grayson (doc. no. 19).

9. Attached hereto as Exhibit "H" is a true and correct copy of notes from an August 19, 2011 executive session of all Commissioners (AAA 201-04).

10. Attached hereto as Exhibit "I" is a true and correct copy of a power point presentation and notes from a public meeting of Commissioners dated August 19, 2011 (AAA 205-16).

11. Attached hereto as Exhibit "J" is a true and correct copy of a power point presentation and notes from an executive session meeting of Commissioners dated August 19, 2011 (AAA 217-31).

12. Attached hereto as Exhibit "K" is a true and correct copy of board meeting transcripts of a public meeting of Commissioners dated August 19, 2011 (AAA 188-200).

13. Attached hereto as Exhibit "L" is a true and correct copy of a page from the Port Authority website showing a map of the route between the Lincoln Tunnel and the Pulaski Skyway, found at <http://www.panynj.gov/bridges-tunnels/driving-directions>

[map.html?sourceAddress=Lincoln+Tunnel&facilityAddress=Lincoln+Tunnel%2C+New+York%2C+NY+10001&destinationAddress=Pulaski+Skyway.](#)

14. Attached hereto as Exhibit "M" is a true and correct copy of a Port Authority document dated June 2012, entitled "NY Works: Overview of the Preliminary Port Authority 10-Year Capital Plan and Current Reform Initiatives," found at http://esd.ny.gov/PublicMeetings_Notices/NYWorks/06032012_NYWORKSCapitalPlanInitiatives.pdf.

15. Attached hereto as Exhibit "N" is a true and correct copy of a Port Authority document dated February 2014, entitled "Capital Plan Summary 2014-2023," found at <http://www.panynj.gov/corporate-information/pdf/2014-public-capital-plan.pdf>.

16. Attached hereto as Exhibit "O" is a true and correct copy of excerpts from plaintiffs' trial memorandum submitted to the District Court in *Automobile Club of New York, Inc. v. Port Authority of New York and New Jersey*, 87 Civ. 2419 (MP), decision reported at 706 F. Supp. 2d 264 (S.D.N.Y. 1989).

17. Attached hereto as Exhibit "P" is a true and correct copy of excerpts from appellants' brief submitted to the Court of Appeals for the Second Circuit in *Automobile Club of New York, Inc. v. Port Authority of New York and New Jersey*, Docket No. 89-7267, decision reported at 887 F.2d 417 (2d Cir. 1989).

18. Attached hereto as Exhibit "Q" is a true and correct copy of excerpts from the financial statements of defendant Port Authority for the years 2001 through 2011, and excerpts from the Port Authority preliminary 2012 budget.

19. Attached hereto as Exhibit "R" is a true and correct copy of an Affidavit of Robert Walters dated November 18, 2011, with exhibits.

Dated: Uniondale, New York
August 21, 2015

/s/ Kevin P. Mulry

Kevin P. Mulry